

111TH CONGRESS
1ST SESSION

S. 1467

To amend title 38, United States Code, to provide coverage under Traumatic Servicemembers' Group Life Insurance for adverse reactions to vaccinations administered by the Department of Defense, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 16, 2009

Mrs. McCASKILL introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide coverage under Traumatic Servicemembers' Group Life Insurance for adverse reactions to vaccinations administered by the Department of Defense, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lance Corporal Josef
5 Lopez Fairness for Servicemembers Harmed by Vaccines
6 Act of 2009”.

1 **SEC. 2. TRAUMATIC SERVICEMEMBERS' GROUP LIFE IN-**
2 **SURANCE COVERAGE FOR ADVERSE REAC-**
3 **TIONS TO VACCINATIONS ADMINISTERED BY**
4 **DEPARTMENT OF DEFENSE.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Section 1032 of the Emergency Supple-
8 mental Appropriations Act for Defense, the Global
9 War on Terror, and Tsunami Relief, 2005 (Public
10 Law 109–13), which was enacted on May 11, 2005,
11 established the Traumatic Servicemember's Group
12 Life Insurance program by adding section 1980A to
13 title 38, United States Code.

14 (2) The Traumatic Servicemember's Group Life
15 Insurance program was established to provide mem-
16 bers of the Armed Forces who suffer a loss as a di-
17 rect result of traumatic injury with short-term mon-
18 etary assistance to mitigate the economic burden on
19 such members and their families. The families of
20 such members often incur financial hardships be-
21 cause they relocate to be with such members as they
22 undergo long and difficult treatment and rehabilita-
23 tion periods.

24 (3) The Secretary of Veterans Affairs is the ex-
25 ecutive agent for the Traumatic Servicemember's
26 Group Life Insurance benefit and has established

1 policies and procedures for dispensing the benefit
2 based on the Secretary's interpretation of section
3 1980A of title 38, United States Code.

4 (4) The Department of Veterans Affairs Insur-
5 ance Center has implemented a policy that does not
6 extend the Traumatic Servicemember's Group Life
7 Insurance benefit to those members of the Armed
8 Forces who sustain a life altering and permanent
9 disability caused by an adverse reaction to a vaccine
10 administered by the Department of Defense as a
11 component of accessions, training, or pre-deployment
12 preparations for duty in a combat or imminent dan-
13 ger zone.

14 (5) There are multiple documented cases of
15 members of the Armed Forces suffering severe, ad-
16 verse reactions to vaccinations administered by the
17 Department of Defense. Such adverse reactions in-
18 clude the traumatic injuries of coma, amputation,
19 paralysis, and loss of the activities of daily living
20 (ADL). All such adverse reactions are covered under
21 existing Traumatic Servicemember's Group Life In-
22 surance program guidelines.

23 (6) Lance Corporal Josef Lopez is a Marine
24 from Springfield, Missouri, who, in September 2006,
25 was administered a smallpox vaccination by the De-

1 partment of Defense just prior to a deployment to
2 Iraq. One week after his arrival in Iraq, Lance Cor-
3 poral Lopez suffered complete paralysis, a coma, and
4 the loss of two activities of daily living, all of which
5 were subsequently diagnosed as resulting from a
6 rare adverse reaction to the smallpox vaccine.

7 (7) Lance Corporal Lopez was medically evacu-
8 ated from Iraq to Landstuhl, Germany, and ulti-
9 mately to the National Naval Medical Center at Be-
10 thesda, Maryland, where he remained for six weeks.
11 Lance Corporal Lopez later endured multiple hos-
12 pitalizations and physical therapy treatments in his
13 native Missouri.

14 (8) Lance Corporal Lopez was wheelchair-
15 bound for one year and now walks with a permanent
16 limp, is unable to stand for long periods, and must
17 use a urine collection bag because he has no control
18 over his bladder. Daily, Lance Corporal Lopez must
19 take prescription medications to control spasms in
20 his legs and bladder. These injuries and issues are
21 a result of Lance Corporal Lopez's adverse reaction
22 to the smallpox vaccine described in paragraph (6).

23 (9) Lance Corporal Lopez was medically retired
24 from the Marine Corps on June 30, 2009.

1 (10) During the course of the treatment that
2 Lance Corporal Lopez received for the adverse reac-
3 tion described in paragraph (6), he and his family
4 endured substantial hardship. His mother spent ex-
5 tensive periods at Lance Corporal Lopez's side dur-
6 ing his initial treatment and she had to make expen-
7 sive modifications to her home to accommodate
8 Lance Corporal Lopez's wheelchair.

9 (11) Lance Corporal Lopez's mother represents
10 the very finest attributes of love and loyalty to her
11 heroic son to whom she has provided care and assist-
12 ance. Such care and assistance is critical for the
13 healing of injured members of the Armed Forces like
14 Lance Corporal Lopez. The provision of such care
15 and assistance by family members is encouraged and
16 recognized by the Armed Forces, by healthcare pro-
17 viders, and by the Congress as highly valuable for
18 the care of injured members of the Armed Forces.

19 (12) Lance Corporal Lopez applied for Trau-
20 matic Servicemember's Group Life Insurance bene-
21 fits because his injuries resulted in qualifying losses
22 under the Traumatic Servicemember's Group Life
23 Insurance program, including coma, paralysis, and
24 loss of activities of daily living. Under the Traumatic
25 Servicemember's Group Life Insurance program as

1 in effect on the day before the date of the enactment
2 of this Act, Lance Corporal Lopez and his family
3 would have received \$75,000 in associated benefits if
4 his claim was accepted. However, his claim was de-
5 nied because the current policy of the Department of
6 Veterans Affairs Insurance Center prohibits extend-
7 ing Traumatic Servicemember's Group Life Insur-
8 ance benefits to those who have adverse reactions to
9 vaccinations administered by the Department of De-
10 fense to facilitate military service in combat thea-
11 ters.

12 (13) Lance Corporal Lopez and his family en-
13 dured undue financial hardship in the time imme-
14 diately following his traumatic injuries and during
15 his recovery process. They were not able to mitigate
16 the financial challenges they faced with assistance
17 from the Traumatic Servicemember's Group Life In-
18 surance program, which was created to provide as-
19 sistance to families of members of the Armed Forces
20 when facing the challenges of traumatic events pre-
21 cisely like that experienced by Lance Corporal
22 Lopez.

23 (14) The policy of the Department of Veterans
24 Affairs in effect on the day before the date of the
25 enactment of this Act that denies Traumatic

1 Servicemember’s Group Life Insurance benefits to
2 members of the Armed Forces who experience trau-
3 matic injuries as a result of being administered vac-
4 cines consequent to their preparation to serve the
5 United States in combat is inconsistent with the in-
6 tent of the Traumatic Servicemember’s Group Life
7 Insurance program, as enacted by Congress.

8 (b) TRAUMATIC SERVICEMEMBERS’ GROUP LIFE IN-
9 SURANCE COVERAGE.—Section 1980A(b)(3) of title 38,
10 United States Code, is amended—

11 (1) by striking “The Secretary” and inserting
12 “(A) Except as provided in subparagraph (B), the
13 Secretary”; and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 “(B) The Secretary shall not exclude under subpara-
17 graph (A) a qualifying loss experienced by a member as
18 a result of an adverse reaction to a vaccination adminis-
19 tered by the Department of Defense, whether voluntarily
20 or involuntarily, for the purposes of military accession,
21 training, or deployment.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 subsection (b) shall take effect as if included in the provi-
24 sions of and amendments made by section 1032 of the
25 Emergency Supplemental Appropriations Act for Defense,

- 1 the Global War on Terror, and Tsunami Relief, 2005
- 2 (Public Law 109–13; 119 Stat. 257).

